

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALBERT T. BEANE, JR., individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

07-CV-09444 (RMB)

THE BANK OF NEW YORK MELLON,  
BNY CONVERGEX EXECUTION  
SOLUTIONS LLC and CALLAN  
ASSOCIATES, INC.,

Defendants.

-----X  
**ORDER**

WHEREAS, the Court previously entered a Stipulation and Order Governing the  
Production and Use of Confidential Information ("Order") (Dkt. # 20) on January 30, 2008;

WHEREAS, paragraph 8 of the Order provided that documents designated as  
"Confidential" under the Order were to be filed under seal pursuant to local rules and the Federal  
Rules of Civil Procedure; and

WHEREAS, the sealed docket clerk instructs that the Order should be modified to allow  
filings in both the sealed and ECF docket.

IT IS HEREBY ORDERED, that a party who submits any pleading or filing supported by  
Confidential Discovery Material on the Court's ECF system or regular docket may separately  
file the Confidential Discovery Material under seal on the sealed docket.

IT IS SO ORDERED, this <sup>19<sup>th</sup></sup> day of May, 2008.

*Richard M. Bereman*

*RMB*

\_\_\_\_\_  
District Court Judge

*The Court retains discretion whether to afford confidential  
treatment to any Confidential Document submitted to the  
Court in connection with any motion, application, or proceeding  
that may result in an order and/or decision by the Court.*

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May 16, 2008

***By Federal Express***

Honorable Richard M. Berman  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

**Re: *Beane v. The Bank of New York Mellon, et al., Civ. No. 07-09444***

Dear Judge Berman:

I am writing on behalf of the parties in this matter to request that the Court enter the proposed order attached hereto, which amends the Stipulation and Order Governing the Production and Use of Confidential Information ("Order") (Dkt. # 20) entered by the Court on January 30, 2008.

The parties seek an amendment to the Order because the sealed docket clerk of the U.S. District Court for the Southern District of New York will accept sealed materials only if those materials have been filed exclusively on the sealed docket. If, for example, a case has been designated an electronically filed case (ECF), as this case has been, the sealed docket clerk will not accept a motion accompanied by sealed exhibits if the moving party also filed that motion on the court's ECF system. Thus, the sealed docket clerk recently refused to accept plaintiffs' motion for class certification and accompanying sealed exhibits because plaintiff had filed the

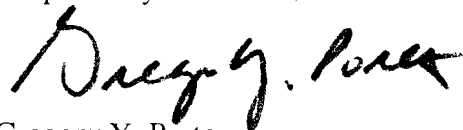
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motion on the ECF docket. The sealed docket clerk explained that he would accept such filings if the Order was modified.

Accordingly, the parties ask the Court to enter the attached order, which modifies paragraph 8 of the original Order to permit filings in both the ECF and sealed dockets.

In addition, plaintiff asks the Court to direct the sealed docket clerk to accept plaintiff's motion for class certification and supporting memorandum, declarations, and exhibits (Dkt. ## 45-47).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory Y. Porter". The signature is fluid and cursive, with the first name "Gregory" being more prominent.

Gregory Y. Porter  
*Attorney for Plaintiff Albert T. Beane, Jr.*

cc: Thomas A. Arena, Esq.  
Dorothy Heyl, Esq.  
Paul Blankenstein, Esq.  
William J. Kilberg, Esq.